



February 21, 2023

To,

Justice Pritinker Diwaker,

Hon'ble Acting Chief Justice,

Allahabad High Court

Email: pritinkerdiwaker@allahabadhighcourt.in

Subject: Letter petition against call for Muslim genocide made by a UP seer

TO,

THE HON'BLE ACTING CHIEF JUSTICE OF ALLAHABD HIGH COURT AND OTHER
COMPANION JUDGES OF THE ALLAHABAD HIGH COURT

WE RESPECTFULLY SUBMIT:

We, at Citizens for Justice and Peace (CJP), are formally submitting this letter petition to bring to your attention a hate-filled video that has been circulating on social media where calls for genocide against the Muslim community with such unlawful utterances being made. Mahant Bajrang Muni who can be seen in the video instigating Hindus to kill Muslims and exterminate the entire community in order to achieve the dream of 'Hindu Rashtra'. This is not the first of such hate offences committed by a person, Sir who seeks protection behind the mendicant's saffron robes.

It is pertinent to note that Mahant Bajrang Muni has been arrested in the past, to be precise in April 2022, on charges of issuing a criminal threat to rape Muslim women while he was addressing supporters who took out a procession on the occasion of Navratri and Hindu New Year, outside a mosque. He was granted bail by a local court within 10 days.

In the February 2023 present, video, Mahant Bajrang Muni can be heard saying,

“In order to make a Hindu Rashtra, we will have to exterminate the Muslim community. Until Muslims are completely exterminated, Bharat cannot become Hindu Rashtra. The entire world knows that Bharat was Hindu Rashtra and we were living in peace. However, due to Muslim jihadis, this country could not remain a Hindu Rashtra. So now we must now take vengeance. “We cannot wait for India to become a Hindu Rashtra, we have to speed it up and that is possible only when we finish off those with a jihadi mindset”

The downloaded copy of the Video is marked and annexed hereto as Annexure A

Who is Mahant Bajrang Muni?

Bajrang Muni Das is a priest or ‘mahant’ of Maharshi Shri Lakshman Das Udasin Ashram in Khairabad town in Sitapur, Uttar Pradesh which is 100 km north of Lucknow.

On April 2, 2022 he had issued an explicit threat to Muslim women threatening them with mass gendered violence. Such a speech coming from a man who enjoys ‘social respectability’ as a monk in saffron robes, who displays his social power to detriment, is potentially not just stigmatizing but a direct threat to members of the Muslim minority. He then spoke into a microphone connected to loudspeaker from a vehicle, parked outside a mosque in Sitapur, saying, “If you tease a single [Hindu] girl, I will abduct your daughters and daughters-in-law from your house, and rape them in public.”

While he was arrested for this unlawful breach, he was granted bail within 10 days and while he apologized in court, he spoke to media person persons saying that he has no feeling of guilty for the threats he made.

Bajrang Muni carries around the protection of two Provincial Armed Constabulary guards which he continues to enjoy despite his arrest last year. This suggests political immunity too.

The downloaded copy of the April 2022 Video is attached here as Annexure B

Despite his previous arrest, Bajrang Muni has resorted to a similar kind of targeted, stigmatizing hate speech i.e. directed at ordinary Muslims; however this is even a greater degree this time.

Hon’ble Sir, while this may seem like a random remark made by a hate offender, we would like to point out that several such hate speeches are being made across the country by various such repeated hate offenders and all of them enjoy impunity. Such rampant calls for genocide and violence against Muslim community are made almost on a daily basis and the videos are circulated by the perpetrators themselves on social media. This shows how brazen these hate offenders are how little care and respect they have for the law of the land. This is majorly due to the inaction on the part of the Police in such cases. This has created a public atmosphere of fear and intimidation for India’s minorities, a state that is unhealthy for any society. The Preamble to our Constitution underlines not just Social, Economic and Political Justice for All the People of India, but also Fraternity (brotherhood and sisterhood among our peoples) that assures the dignity of every individual which status then is indelibly connected to the unity and integrity of the Nation. Even Liberty of Faith and Expression of All is measured on par and in balance with a Life of Equality and Dignity for All. Such deleterious hate speech that is an open provocation to Violence is a direct violation of these non-negotiable principles, Sir.

We, at CJP, have filed multiple complaints to multiple authorities hoping for action in cases of hate speech however, since these individuals are backed by major right wing organizations, no action has been in sight. In line with our ongoing campaign to combat hate speech of all hues, we have complained against the current protagonist, Bajrang Das Muni in April 2022. In this complaint we had specifically pointed out that by filing a weak, even flimsy complaint, not applying all relevant sections of the law, the Uttar Pradesh police was in fact ensuring difficulties in prosecution of this individual.



A copy of the complaint sent to DGP, Uttar Pradesh dated April 18, 2022 is marked and annexed as Annexure C

As we are sure you are aware, Sir, we would like to bring to your attention that the Supreme Court, while dealing with a spate of petitions against Hate Speech has raised some serious concerns over state's inaction. In its October 21, 2022 order, the bench of Hon'ble Justices KM Joseph and Hrishikesh Roy had recognized that the court *"is charged with the duty to protect the fundamental rights and also preserve the constitutional values and the secular democratic character of the nation and in particular, the rule of law."*

In the same order, the court had asked DGP, Uttar Pradesh (among others) to ensure suo moto action is taken to register cases even if no complaint is forthcoming, in cases of hate speech.

A copy of the Supreme Court order dated October 21, 2022 has been marked and annexed as Annexure D

During these hearings, the Supreme Court has also made certain oral remarks that indicate how seriously the court is viewing these incidents of hate speech keeping in mind the impact these rampant speeches can have on the psyche of not just the minority that is under threat, but also the majority that is being instigated against them. On February 6 the court said, "There cannot be any compromise on hate speech at all". It further said that it is the primary duty of the State to protect its citizens from any such hate crimes.

Your Lordship, while dealing with a PIL filed against restriction on sale and purchase of meat, liquor and eggs in 22 wards in *Shahida vs. State of UP (PIL No. 453 of 2022)* of Mathura Vrindavan Nagar Nigam, had observed that "it is essential to have tolerance and respect for all communities".

Hon'ble Sir, the feeling of othering that is being attempted, has borne fruit in the various incidents of violence where the people from minority community have been attacked over the years simply for their religious identity. We are sure Your Lordship is aware of these heinous incidents where people from the Muslim community have been targeted, in some cases attacked and abused and other cases lynched or murdered. The most recent one being of the two Muslim men hailing from Rajasthan, who were picked up allegedly on suspicion of cow smuggling and who were eventually found in a burnt condition, their bodies charred, in a vehicle in Haryana. One cannot alienate these hate speeches from these incidents of violence since these are somehow a direct repercussion of these hate speeches. These hate speeches make clear calls for violence and in the case of Bajrang Muni, he has called for their extermination!

Hon'ble Sir, we humbly urge you to take suo moto cognizance of this incident and issue a writ for taking strict action against Bajrang Muni for his hate speech. We strongly believe that if this court, in all its wisdom, take this matter up, it will serve as a deterrent for such fundamentalists who make such calls for genocide.

This incident of hate speech warrants serious action keeping in mind that Bajrang Muni has been arrested before, only about a year back, for making hate speech against Muslim community and was

granted bail despite state action, he has resorted to hate speech again, which shows his utter disregard for law and order.

We believe that the following offences are made out against Bajrang Muni, under the Indian Penal Code:

153. Wantonly giving provocation, with intent to cause riot— if rioting be committed; if not committed

153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony

153B. Imputations, assertions prejudicial to national integration. — (1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise

295. Injuring or defiling place of worship, with intent to insult the religion of any class.-- Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

298. Uttering words, etc., with deliberate intent to wound the religious feelings.

503. Criminal intimidation.

504. Intentional insult with intent to provoke breach of the peace

505. Statements conducing to public mischief

In December 2021, similar calls for genocide were made during the infamous Dharam Sansad of Haridwar, Uttarakhand which was widely condemned and is a sub-judice matter before the Supreme Court bench. Evidently, there is no deterrent for such miscreants who openly give calls for violence and mass genocide of Muslims. There is no doubt that it is exposure to such speeches that drive people to acts of violence against members of the minority community, solely based on their religious identity.

Former Supreme Court judge, Justice (retd) Madan Lokur had opined that the immediate action should have been taken against the hate speeches made at Dharam Sansad, Haridwar. After that event, such isolated calls for genocide have been made by individuals randomly, without any action against them. The police has not taken suo moto action in majority cases which has driven the frequency and brazenness of such hate speech.

Judicial Precedents:

- A. In *Firoz Iqbal Khan vs Union of India [W.P (Civ.) No. 956 of 2020]*, the Supreme Court had held,

“..the edifice of a democratic society committed to the rule of law under a regime of constitutional rights, values and duties is founded on the co-existence of communities. India

is a melting pot of civilizations, cultures, religions and languages. Any attempt to vilify a religious community must be viewed with grave disfavour by this Court as the custodian of constitutional values.”

- B. In *Tehseen Poonawalla v UOI and ors (2018) 9 SCC 501*, the Supreme Court held that, it is the responsibility of the States to prevent untoward incidents and to prevent crime. The court further said,

17. There can be no shadow of doubt that the authorities which are conferred with the responsibility to maintain law and order in the States have the principal obligation to see that vigilantism, be it cow vigilantism or any other vigilantism of any perception, does not take place. When any core group with some kind of idea take the law into their own hands, it ushers in anarchy, chaos, disorder and, eventually, there is an emergence of a violent society. Vigilantism cannot, by any stretch of imagination, be given room to take shape, for it is absolutely a perverse notion... No one has the authority to enter into the said field and harbour the feeling that he is the law and the punisher himself. A country where the rule of law prevails does not allow any such thought. It, in fact, commands for ostracisation of such thoughts with immediacy. (Emphasis added)

20. Hate crimes as a product of intolerance, ideological dominance and prejudice ought not to be tolerated; lest it results in a reign of terror. Extra judicial elements and non-State actors cannot be allowed to take the place of law or the law enforcing agency. A fabricated identity with bigoted approach sans acceptance of plurality and diversity results in provocative sentiments and display of reactionary retributive attitude transforming itself into dehumanisation of human beings. Such an atmosphere is one in which rational debate, logical discussion and sound administration of law eludes thereby manifesting clear danger to various freedoms including freedom of speech and expression. One man's freedom of thought, action, speech, expression, belief, conscience and personal choices is not being tolerated by the other and this is due to lack of objective rationalisation of acts and situations’

- C. In *Pravasi Bhalai Sangathan v. Union of India and ors., reported in AIR 2014 SC 1591*, while hearing a plea urged in public interest that the existing laws of the country are not sufficient to cope with the menace of "hate speeches", had the occasion to consider what a "hate speech" is. The court stated thus,

"7. Hate speech is an effort to marginalise individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have a social impact. Hate speech lays the ground-work for later, broad attacks on vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide. Hate speech also impacts a protected group's ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy."

- D. In *Nandini Sundar and others v. State of Chhattisgarh AIR 2011 SC 2839*, the Supreme Court has held that it is the duty of the states to strive, incessantly and consistently, to promote

fraternity amongst all citizens so that the dignity of every citizen is protected, nourished and promoted.

Moreover, Hon'ble Sir, the 267th Law Commission Report on Hate Speech had strongly advocated that the Legislature amend the Indian Penal Code and insert the following sections:

Prohibiting incitement to hatred-

"153 C. Whoever on grounds of religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe –

(a) uses gravely threatening words either spoken or written, signs, visible representations within the hearing or sight of a person with the intention to cause, fear or alarm; or

(b) advocates hatred by words either spoken or written, signs, visible representations, that causes incitement to violence shall be punishable with imprisonment of either description for a term which may extend to two years, and fine up to Rs 5000, or with both."

Causing fear, alarm, or provocation of violence in certain cases.

"505 A. Whoever in public intentionally on grounds of religion, race, caste or community, sex, gender, sexual orientation, place of birth, residence, language, disability or tribe uses words, or displays any writing, sign, or other visible representation which is gravely threatening, or derogatory;

(i) within the hearing or sight of a person, causing fear or alarm, or;

(ii) with the intent to provoke the use of unlawful violence, against that person or another, shall be punished with imprisonment for a term which may extend to one year and/or fine up to Rs 5000, or both"

Further, the 267th Law Commission Report opined that:

“Hate speech has the potential of provoking individuals or society to commit acts of terrorism, genocides, ethnic cleansing etc. Such speech is considered outside the realm of protective discourse. Indisputably, offensive speech has real and devastating effects on people’s lives and risks their health and safety. It is harmful and divisive for communities and hampers social progress. If left unchecked hate speech can severely affect right to life of every individual.”

It is our humble plea to you, Hon'ble Sir, that this court, committed to the rule of Law and the Constitutional Mandate, treat this as a petition before your Hon'ble selves and, in the interests of justice and for maintenance of law and order and social harmony in the state of Uttar Pradesh, give necessary directions to the State of Uttar Pradesh to take strict action against Bajrang Muni for offences already committed; serious precautionary measures against future violations and hold the law enforcement authorities to implement in letter and spirit the detailed Directives provided by the Hon'ble Supreme Court in two recent cases:



In *Tehseen Poonawala* (supra), the Supreme Court had issued guidelines and categorised them into preventive, remedial and punitive measures. These included specific directions to state government to designate officers to prevent incidents of lynching, identifying tendencies of vigilantism and take steps to prohibit instances of dissemination of offensive material through different social media platforms.

For easy reference, we are providing an extract from the main judgement where the guidelines have been mentioned.

A copy of the extract from the *Tehseen Poonawala v UOI and ors* (2018) 9 SCC 501 judgement has been marked and annexed as Annexure E

The Supreme Court bench comprising Hon'ble Justice KM Joseph and Justice BV Nagarathna are hearing several matters pertaining to hate speech and periodical hearings are underway. In its order dated January 13, 2023, the bench had directed the respondents to “ensure that immediately as and when any speech or any action takes place which attracts offences such as Sections 153A, 153B and 295A and 505 of the IPC etc., suo moto action will be taken to register cases even if no complaint is forthcoming and proceed against the offenders in accordance with law.”

A copy of the Supreme Court order dated January 13, 2023 is marked and annexed as Annexure F

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary

List of Annexures

Annexure A Downloaded copy of February 20, 2023 Video

Annexure B Downloaded copy of April 2022 Video

Annexure C A copy of the complaint sent to DGP, Uttar Pradesh dated April 18, 2022

Annexure D A copy of the Supreme Court order dated October 21, 2022

Annexure E A copy of the extract from the *Tehseen Poonawala v UOI* judgement

Annexure F A copy of the Supreme Court order dated January 13, 2023